

CHAPTER 2

ENVIRONMENTAL REQUIREMENTS

OVERVIEW

The Montana Environmental Policy Act (MEPA) seeks to avoid or mitigate adverse impacts on the environment by mandating careful consideration of the potential impacts of any development assisted with state funds or approved by a state agency. In addition, TSEP projects are subject to numerous other state environmental laws. In order to avoid problems which could cause delays, add significantly to project costs, or even prevent a project from being carried out, TSEP applicants were encouraged to be sensitive to potential environmental impacts when initially planning their projects.

Communities that have had experience with federally-funded infrastructure programs are aware that the detailed evaluation of potential environmental impacts required by the National Environmental Policy Act, normally takes place after the initial funding award has occurred. MEPA, likewise, requires that all "agencies" of the state consider the environmental impacts of proposed projects. However, TSEP projects are exempt from standard MEPA environmental assessment procedures because the Legislature, rather than a state agency, approves all TSEP projects. For this reason, all TSEP applicants were required to complete an environmental checklist as part of their application, which was intended to alert them to considerations that may have to be addressed in the location, design, or construction of a public facilities project to avoid potential adverse environmental effects or expensive mitigation or construction costs. TSEP applicants were also required to take into account any environmental impacts in the alternative analysis and the selection of the preferred design alternative. That information was used to advise legislators regarding potential environmental impacts before projects were approved by the Legislature.

Although TSEP projects are exempt from the standard environmental assessment procedures of MEPA, the projects are subject to a variety of state environmental laws and related regulations. As their TSEP projects get underway, TSEP recipients should continue to give strong consideration to any possible effects the proposed project could have on the environment and the need to comply with all applicable state environmental requirements.

APPLICABLE STATE REQUIREMENTS

Some of the key state environmental requirements that may affect local TSEP projects include the following:

- ? Montana Environmental Policy Act (MEPA), Title 75, Chapter 1, MCA.

- ? Stream Preservation Act, Title 87, Chapter 5, Part 5, MCA
- ? The Natural Streambed and Land Preservation Act of 1975, Title 75, Chapter 7, Parts 1 and 2, MCA.
- ? Montana Solid Waste Management Act, Title 75, Chapter 10, Part 2, MCA.
- ? Solid Waste Management Act, Title 75, Chapter 10, Part 1, MCA.
- ? Clean Air Act of Montana, Title 75, Chapter 2, MCA.
- ? Water Pollution Act of Montana, Title 75, Chapter 5, MCA.
- ? Public Water Supply, Title 75, Chapter 6, MCA.
- ? Floodplain and Floodway Management, Title 76, Chapter 5, MCA.

If questions arise regarding compliance with a state environmental requirement, grant recipients should contact their TSEP liaison for assistance.

Floodplains and Wetlands

Because water and sewer treatment facilities are frequently located in proximity to surface waters or low-lying areas, special attention should be paid to requirements related to floodplains and wetlands. The TSEP recipients must determine whether a proposed project is located in or will affect a floodplain or wetlands area. If assistance is needed in determining whether the project is located in or would affect a floodplain, please contact:

Floodplain Management
Water Operations Bureau
Water Resources Division
Montana Department of Natural Resources and Conservation
1424 9th Avenue
PO Box 201601
Helena, Montana 59620-1601

Phone Number: 444-6654

Lakes, Streams and Rivers

The placement and construction of structures or improvements, such as bridges, below the low water mark of navigable water bodies requires a permit from the Montana Department of Natural Resources and Conservation. This requirement applies to any lake or streambed that has a history of commercial use or navigation. The structures covered by this requirement include bridges, roads, pipelines, powerlines, telephone lines, diversion structures and riprap. For information regarding compliance with the state permit requirements, contact:

Special Use Management Bureau
Trust Land Management Division
Montana Department of Natural Resources and Conservation
PO Box 201601
1625 11th Avenue
Helena, MT 59620-1601

Phone Number: 444-2074

In addition, U.S. Environmental Protection Agency approval or a U.S. Army Corps of Engineers "404" permit may be required if wetlands will be affected.

A "310" permit from the County Conservation District may be necessary if construction work will affect a streambank.